

Prototype**Programmatic Agreement Between/Among the United States Department of Agriculture Natural Resources Conservation Service, [INSERT STATE NAME] Office, the [INSERT STATE NAME] State Historic Preservation Officer, [Indian tribe or Native Hawaiian organization] regarding NRCS Conservation Assistance Undertakings**

WHEREAS, the United States Department of Agriculture Natural Resources Conservation Service (NRCS) administers conservation assistance programs...*(pursuant to these authorities)*;

WHEREAS, the NRCS proposes to...*(general types of programs/assistance)*;

WHEREAS, the NRCS has determined that many of these conservation activities constitute undertakings with the potential to affect properties eligible for or listed on the National Register of Historic Places and are therefore subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, 36 CFR Part 800;

WHEREAS, the NRCS has determined that certain conservation activities may not constitute undertakings with the potential to affect historic properties pursuant to 36 CFR § 800.3(a)(1), and these decisions will inform the development of subsequent Section 106 agreements;

WHEREAS, the NRCS recognizes that Section 106 has statutory requirements independent of its compliance with the National Environmental Policy Act, including the use of categorical exclusions;

WHEREAS, in accordance with 36 CFR § 800.14(b)(4), the Advisory Council on Historic Preservation (ACHP) has designated this Agreement as a Prototype Programmatic Agreement (Prototype Agreement), which allows for the development and execution of subsequent programmatic agreements (PAs) with the NRCS State Office(s) without the participation or signature of the ACHP;

WHEREAS, the amended nationwide Programmatic Agreement among the United States Department of Agriculture Natural Resources Conservation Service, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers relative to: Conservation Assistance expires on November 2, 2013, and this Prototype Agreement and subsequent PAs shall provide for NRCS' compliance with Section 106 when executed; and

WHEREAS, after the expiration of the amended nationwide Programmatic Agreement in November 2013, the NRCS shall comply with 36 CFR Part 800 for all its undertakings in those states where the NRCS State Office has not developed a PA following this Prototype Agreement;

WHEREAS, the NRCS has consulted with the ACHP, the National Conference of State Historic Preservation Officers (NCSHPO), Indian tribes, Native Hawaiian organizations (NHOs), and other interested parties, including [list?] in developing this Prototype Agreement, and has determined that the requirements of Section 106 can be more effectively and efficiently fulfilled if a programmatic approach is used to stipulate roles and responsibilities, coordinate consultation with the State Historic Preservation Officer (SHPO), Indian tribes, and NHOs, facilitate the identification and evaluation of historic properties, assess the effects of a proposed undertaking to historic properties, identify those undertakings

Comment [KEYF1]: Per 36 CFR 800.3(a)(1), the NRCS has the responsibility to unilaterally determine whether its action constitutes an undertaking with the potential to affect historic properties. Because there has been confusion about this stage in the Section 106 process, we might encourage this discussion at the state level for clarity (but note the results do not need to be publicized).

Comment [KEYF2]: Need to explain how existing SLAs and consultation protocols will be handled/treated under prototype PA. Require review/amendment to ensure meet standards and principles of prototype, etc.

Comment [KEYF3]: Consider whether we want the amended nPA to continue in force until its expiration, or, assuming the prototype PA is implemented prior to that point, explicitly providing for the replacement of the nPA with the subsequent PAs following the prototype (before the stated expiration date). For continuity, it might make more sense to allow the nPA to continue as long as possible while the subsequent PAs are being developed and the SLAs reviewed/amended.

This could be provided for in the ACHP's instruction letter accompanying the prototype PA.

for which no further Section 106 review is required, *and streamline the resolution of adverse effects to historic properties where appropriate*;

Comment [KEYF4]: Possibly...?

WHEREAS, the NRCS [conducted public outreach, when and where] in the development of this Prototype Agreement;

WHEREAS, the NRCS [State office(s)] has elected to use this Prototype Agreement in [relevant state(s)];

WHEREAS, the NRCS [State office(s)] has consulted with [SHPO(s)] to develop this PA;

WHEREAS, the NRCS has consulted with [Indian tribes or NHOs] to develop this PA;

Comment [KEYF5]: Allow for agreements between NRCS and SHPO/tribe/NHO, and for agreements with NRCS, SHPO, and tribe/NHO.

WHEREAS, the NRCS has consulted with [other interested parties, e.g., conservation districts, state advisory committees, where appropriate], [and any public outreach done] to develop this PA;

Comment [KEYF6]: Instructions for subsequent consultation to develop PAs should be included in the ACHP's forwarding letter.

WHEREAS, this PA does not apply to undertakings occurring on or affecting historic properties on tribal lands, as defined by Section 301(14) of the NHPA, without prior agreement and execution of the PA by the relevant Indian tribe;

WHEREAS, this PA does not alter or modify the NRCS' responsibilities to consult with Indian tribes and NHOs on all undertakings that might affect historic properties of religious and cultural significance to them, regardless of where the undertaking is located, without prior agreement by the relevant Indian tribe or NHO; the NRCS recognizes that historic properties of religious and cultural significance to an Indian tribe may be located on ancestral homelands or on officially ceded lands and in many cases, because of migration or forced removal, Indian tribes may now be located far away from historic properties that still hold such significance for them;

WHEREAS, the NRCS may provide technical assistance to other USDA agencies, however, this PA applies only to the NRCS programs and undertakings identified above, and does not apply to other USDA agency programs or undertakings;

WHEREAS, the NRCS State Conservationist is the federal agency official in accordance with 36 CFR § 800.2(a), responsible for Section 106 consultation, findings and determinations, and implementation of this PA;

WHEREAS, the NRCS General Manual, Title 420, Part 401 Cultural Resources (Archeological and Historic Properties), and National Cultural Resources Procedures Handbook, Part 601, *support and incorporate the implementation of this PA*;

Comment [KEYF7]: Should we note somehow that the Handbook will be updated to reflect the implementation of the Prototype Agreement?

WHEREAS, *(additional clauses as needed)*.

NOW, THEREFORE, the NRCS [State office], the [State] SHPO, *[and the Indian tribe or NHO]* agree that compliance with the following stipulations will satisfy the NRCS' Section 106 responsibilities for the undertakings identified above in [relevant state(s)].

Comment [KEYF8]: The NRCS may elect to invite any Indian tribe or NHO to participate in the agreement as an invited signatory or concurring party (where the agreement is off tribal lands).

STIPULATIONS

Comment [KEYF9]: These stipulations (as part of the national Prototype Agreement in template form) would form the basis of the individually negotiated NRCS State Office agreements.

PRELIMINARY DISCUSSION FIRST DRAFT

1-7-13

NRCS [State] office shall ensure that the following stipulations are carried out:

I. Scope.

- a. Once executed by the NRCS and the relevant SHPO¹, this PA applies in the state of the relevant NRCS State Office.
 - i. This PA shall not modify the NRCS' responsibilities to consult with Indian tribes and NHOs unless the tribe or NHO participates in the development of this agreement.
- b. This PA does not apply to undertakings occurring on or affecting historic properties on tribal lands without prior agreement and execution of this PA by the relevant Indian tribe.

II. NRCS Roles and Responsibilities.

- a. NRCS shall ensure those individuals carrying out or overseeing cultural resources work are appropriately qualified as applicable to the resource being addressed, in accordance with the Secretary of the Interior's Professional Qualification Standards (professional qualifications) *(1997 draft version, 62 Federal Register 33708; 1983 enforced version, 48 CFR 44716)*.
- b. NRCS State Conservationist is the responsible federal agency official for Section 106 purposes, including consultation with the SHPO, Tribal Historic Preservation Officer(s), Indian tribes, and NHOs.
- c. NRCS State Resource Conservationist shall...*(re: cultural resources)*
- d. NRCS Cultural Resource Specialist (CRS) shall... *(re: cultural resources)*. The CRS shall monitor and oversee the work and reporting of all NRCS Field Office Personnel, technical service contractors, and technical service providers. *(more detail here about oversight?)*
- e. NRCS Field Office Personnel shall conduct those activities associated with cultural resources as set forth in the National Cultural Resources Procedures Handbook, Part 601 *(and summarized here)*
- f. If appropriate, NRCS and its applicants may use technical service contractors and technical service providers to assist with cultural resources work. NRCS shall ensure employed contractors or providers meet the relevant professional qualifications, *or have oversight by NRCS staff/CRS who meet such qualifications*, to address the resources likely to be encountered or evaluated.
 - i. NRCS State Conservationist remains responsible for all findings and determinations of eligibility and effect, and shall remain the primary point of contact for consultation with the SHPO/Indian tribe/NHO and other consulting parties.

III. Training.

- a. NRCS shall require personnel *conducting or overseeing* cultural resources work to take, at a minimum, the NRCS Cultural Resources Training Modules and the ACHP's Section

Comment [KEYF10]: Or, depending on the timing, perhaps reference the updated standards as they are issued?

Comment [KEYF11]: Does this need to be more specific that each State office should have access to folks who meet professional qualifications?

Comment [KEYF12]: Reference the relevant provisions of the NRCS GM for these roles.

Comment [KEYF13]: Appropriate to include this description here? Any 106 duties?

Comment [KEYF14]: Should these be treated separately as far as training requirements?

¹ Throughout this document, the term "SHPO/tribe/NHO" is used to allow for the execution of subsequent agreements with the NRCS and the SHPO, an Indian tribe, and/or Native Hawaiian organization, as agreed to by those parties.

106 Essentials course, or a similar course if approved by the NRCS Federal Preservation Officer, within the first calendar year of their employment.

- i. NRCS personnel shall review training completion with their supervisor and will include updates and training reviews in their "Individual Development Plans."
- b. NRCS shall invite the SHPO/Indian tribe/NHO to participate in field and classroom training (*specify?*), which shall be held (*annually?*).
- c. NRCS shall encourage all personnel conducting or overseeing cultural resources work to take additional training as provided by the SHPO, Indian tribe, NHO, ACHP, National Park Service, or other relevant agency regularly. Such training shall be referenced in "Individual Development Plans" (*or some other incentive to take additional training, e.g., professional credits?*).

Comment [KEYF15]: Suggestion for refresher and Mod 7&8; every 2 years or as needed but not less than every 3 years. Attended by all field personnel?

IV. Lead federal agency.

- a. For any undertaking for which the NRCS is the lead federal agency for Section 106 purposes per 36 CFR § 800.2(a)(2), it shall follow the terms of this PA for that undertaking.
 - i. NRCS shall notify the SHPO/Indian tribe/NHO of its involvement in the undertaking and the involvement of the other federal agencies.
- b. For any undertaking for which the NRCS is not the lead federal agency for Section 106 purposes, including those undertakings for which the NRCS provides technical assistance to other USDA or federal agencies, the terms of this PA shall not apply to that undertaking.

V. The NRCS shall consult with the relevant SHPO, Indian tribe(s), or NHOs in developing this agreement.

- a. Where a State Level Agreement (SLA) between the NRCS and SHPO exists pursuant to the 2002 amended nationwide Programmatic Agreement, the NRCS and SHPO shall consult to determine whether it can be amended to meet the standards and directions in this Prototype Agreement. NRCS should invite interested Indian tribes or NHOs to participate in this discussion. (*If SLA can be amended, provide standard amendment language/cover sheet?*).
 - i. To integrate consultation with Indian tribes or NHOs in an existing SLA, the parties may consider appending consultation protocol(s) to the agreement.
- b. Where a consultation protocol exists between the NRCS and an Indian tribe, the NRCS and Indian tribe shall determine whether that protocol should continue in force, be amended, or be replaced by a new agreement following this Prototype Agreement.

Comment [KEYF16]: In considering existing SLAs, and development of new agreements off tribal lands, require meeting among State Conservationist, SHPO, tribes, NHOs (and other consulting parties- e.g., local governments?) to discuss the structure and scope of subsequent agreement(s), and to identify the greatest efficiencies in a coordinated Section 106 review process. Include this information in ACHP's instruction letter and note participants and outcome in Whereas clause.

VI. The NRCS shall consult with the relevant SHPO, Indian tribe(s), or NHOs to identify those undertakings that are not likely to affect or adversely affect historic properties under certain identified conditions and therefore, require no further Section 106 review with the SHPO's/tribe's/NHO's office. These undertakings are listed in Appendix 1, appended to this agreement.

- a. The list of undertakings provided in Appendix 1 may be modified through consultation between the NRCS State Conservationist and the SHPO/tribe/NHO without requiring an

Comment [KEYF17]: To be appended to NRCS State Office agreements, not the national Prototype Agreement, and developed through consultation with SHPOs, THPOs, tribes, and NHOs.

amendment to this PA. Any changes to Appendix 1 shall be appended to this PA when signed by the State Conservationist and SHPO/tribe/NHO and shall take effect on the date of the final signature.

- i. NRCS shall provide the ACHP a copy of any modifications to Appendix 1.

VII. *NRCS field office personnel* may determine that a proposed undertaking meets the criteria as listed in Appendix 1.

- a. *NRCS field office personnel* shall complete the form provided in Appendix 2 in making this determination. This form shall be retained in the field office and submitted to the CRS/other appropriate staff upon request.
 - i. NRCS CRS shall review the completed forms (*quarterly?*) and submit the completed forms to the SHPO/tribe/NHO upon request (*or set up regular schedule for submission if requested?*).
 - ii. If the NRCS CRS or SHPO/tribe/NHO questions the use of the form for any particular undertaking or series of undertakings, the NRCS CRS shall consult with the SHPO/tribe/NHO and relevant NRCS field office personnel to review the criteria as listed in Appendix 1 and the form in Appendix 2. NRCS shall make the ACHP aware of the outcome of such a review.
- b. The NRCS shall consult with applicants, representatives of local governments, and any other consulting parties, as appropriate, for undertakings identified in stipulation VI and Appendix 1 on a case by case basis pursuant to 36 CFR Part 800.

VIII. Consultation process for undertakings with potential to affect historic properties that require further review.

- a. For those undertakings not listed in Appendix 1, the NRCS shall consult with the SHPO/tribe/NHO in determining the undertaking's area of potential effects (APE), identifying historic properties that may be affected by the undertaking, and assessing potential effects.
 - i. The NRCS can provide information relating to the identification of historic properties and assessment of effects in a single submittal, provided it meets the minimum requirements identified in Appendix 3.
 - ii. Where the NRCS determines that no historic properties are located in the APE for a proposed undertaking, the NRCS shall describe the basis for its determination.
 - iii. The NRCS will attempt to avoid effects to historic properties whenever possible; where historic properties are located in the APE, NRCS shall describe how it proposes to modify, buffer, or move the undertaking to avoid effects to historic properties.
 - iv. Where NRCS determines that its undertaking would affect but not adversely affect historic properties in the APE, it shall describe how historic properties would be affected.
- b. The SHPO/tribe/NHO shall have thirty (30) calendar days from receipt of complete documentation as listed in stipulation VIII.a.i. to review the NRCS' determination and

Comment [KEYF18]: Appropriate personnel to make this determination?

Comment [KEYF19]: Suggest providing standard form at national level for consistency in information gathering and reporting?

Comment [KEYF20]: How long are these forms retained? Used for some reporting mechanism?

And/or require forms to be submitted to CRS in certain/special situations? Route through DC/AC? Role for CRS vs. State Resource Conservationist?

Comment [KEYF21]: E.g., description of the undertaking, APE, map, steps taken to identify and evaluate historic properties, known historic properties, whether additional identification or evaluation efforts are needed and why, assessment of effects. The use of such a streamlined approach should be discussed in consultation with SHPO, THPO, tribes, and NHOs.

Comment [KEYF22]: What about negative findings reporting; specify level of detail for this report?

provide comments. The NRCS shall take into account any comments provided by the SHPO/tribe/NHO.

- i. If the SHPO/tribe/NHO disagrees with NRCS' determination, it shall notify the NRCS within the thirty calendar day time period referenced above. The NRCS shall consult with the SHPO/tribe/NHO to attempt to resolve the disagreement.
- c. If the SHPO/tribe/NHO does not respond to the NRCS within the thirty day calendar period, or if the SHPO/tribe/NHO concurs with the NRCS' determination and proposed actions pursuant to VIII.a.ii-iv, the NRCS shall document the concurrence/lack of response, and may move forward with the undertaking.
- d. Where the NRCS determines that its undertaking may adversely affect a historic property, it shall notify the SHPO/tribe/NHO, and the ACHP, describe proposed measures to minimize or mitigate the adverse effects, and follow the process in 36 CFR § 800.6 to develop a Memorandum of Agreement to resolve the adverse effects.

IX. The NRCS State Conservationist/other appropriate NRCS state office personnel shall be responsible for notifying the public of proposed undertakings that may affect historic properties and require further Section 106 review.

- a. Suggest standard public outreach methods?

X. Emergency Procedures.

- a. Procedures for exigency situations. (Define situations; refer to 36 CFR 800.12 and identify specific procedures in NRCS GM and cultural resources handbook).
- b. Procedures for non-exigency situations.

***Note that each State office should prepare its own procedures in consultation with SHPO/tribe/NHO- without such procedures in place through the State agreement, the NRCS shall follow the steps set forth in the Cultural Resources Procedures Handbook.*

XI. Post-review discoveries of cultural resources and unanticipated effects to historic properties.

- a. Where construction has not yet begun and a cultural resource is discovered after Section 106 review, the NRCS shall consult to resolve any adverse effects in accordance with 36 CFR 800.6.
- b. The NRCS shall ensure that every contract for assistance includes provisions for halting work/construction in the area when potential historic properties are discovered or unanticipated effects on historic properties found after construction has begun.
 - i. When such a discovery occurs, the (contractor) shall immediately notify the NRCS CRS, supervisory NRCS personnel for the area, and the landowner/applicant.
 - 1. NRCS CRS shall inspect the discovery (*within 24 hours?*) and establish a buffer zone (*include standard size?*) surrounding the discovery. Construction/work may resume outside the buffer zone.
 - 2. NRCS CRS shall notify the SHPO/tribe/NHO and the ACHP within 48 hours of the discovery and describe NRCS' assessment of the National Register eligibility of the property and proposed actions to resolve any adverse effects to historic properties.

Comment [KEYF23]: Should this specify who within NRCS will document this final action?

Comment [KEYF24]: Consider developing standard treatments to resolve adverse effects for certain routine undertakings?

Comment [KEYF25]: Perhaps include suggestions for outreach in the ACHP's instruction letter?

An example: "Such outreach may include, but not be limited to, posting online, public meetings, and publication in newspapers. NRCS will provide a reasonable amount of time for public response for each finding or consolidated findings. The NRCS State Conservationist/or designated NRCS official shall be responsible for receiving and responding to public comments, as appropriate."

Comment [KEYF26]: Is this terminology appropriate?

Comment [KEYF27]: Note that the following procedures may be modified in the consultation to develop the individual State PA.

- 1 3. The SHPO/tribe/NHO and ACHP shall respond within 48 hours from
2 receipt of the notification with any comments on the discovery and
3 proposed actions.
4 4. NRCS shall take any comments provided into account and carry out
5 appropriate actions to resolve any adverse effects. Construction may then
6 resume on the project.
7 5. NRCS shall provide a report to the SHPO/tribe/NHO and the ACHP of
8 the actions when they are completed.
9
10 c. Procedures for discoveries of human remains. The NRCS shall follow all applicable
11 federal and state laws, including the Native American Graves Protection and Repatriation
12 Act and state burial laws, where appropriate.
13
14 *i. Identify specific provisions in NRCS cultural resources handbook; refer to ACHP*
15 *Human Remains policy and Section 106 Archaeology Guidance.*
16
17 XII. Dispute resolution.
18 a. Should any consulting party to this agreement object at any time to any actions proposed
19 or the manner in which the terms of this agreement are implemented, the NRCS State
20 Conservationist shall consult with such party to resolve the objection. If the State
21 Conservationist determines that such objection cannot be resolved, he or she will:
22 i. Forward all documentation relevant to the dispute, including the State
23 Conservationist's proposed resolution, to the NRCS Federal Preservation Officer
24 and the ACHP. The ACHP shall provide NRCS, FPO, and NRCS State
25 Conservationist with its advice on the resolution of the objection within thirty
26 (30) days of receiving adequate documentation. Prior to reaching a final decision
27 on the dispute, NRCS shall prepare a written response that takes into account any
28 timely advice or comments regarding the dispute from the ACHP and signatories,
29 and provide them with a copy of this written response. NRCS will then proceed
30 according to its final decision.
31 ii. If the ACHP does not provide its advice regarding the dispute within the thirty
32 (30) day time period, NRCS may make a final decision on the dispute and
33 proceed accordingly. Prior to reaching such a final decision, NRCS shall prepare
34 a written response that takes into account any timely comments regarding the
35 dispute from the signatories to the agreement, and provide them and the ACHP
36 with a copy of such written response.
37 b. NRCS' responsibility to carry out all other actions subject to the terms of this agreement
38 that are not the subject of the dispute remain unchanged.
39 c. Any consulting party to this agreement may request the ACHP provide its advisory
40 opinion regarding the substance of any finding, determination, or decision regarding
41 compliance with its terms.
42
43 XIII. Annual reporting and monitoring.

Comment [KEYF28]: Specify State
Conservationist here?

- 1 a. Each *(insert a specific time period)* following the execution of this agreement until it
 2 expires or is terminated, NRCS State Conservationist shall provide all consulting parties
 3 (including those parties who participate in the consultation but do not sign the agreement,
 4 *and the FPO for compilation of national report?*) a summary report detailing work
 5 undertaken pursuant to its terms. Such report shall include any scheduling changes
 6 proposed, any problems encountered, and any disputes and objections received in NRCS'
 7 efforts to carry out the terms of this agreement.
 8 b. *Require NRCS State Conservationist to report to NRCS HQ about whether an annual*
 9 *meeting with the SHPO/Indian tribe/NHO was needed each fiscal year (why or why not),*
 10 *or report on the meeting that was held with the SHPO/Indian tribe/NHO.*
 11 c. *Require regular reviews of agreement at minimum 2-5 year* intervals.
 12 d. *NRCS State Office, SHPO, Indian tribe, or NHO may request the ACHP participate in*
 13 *any annual meeting or agreement review.*
 14
 15 XIV. Compliance with applicable state law and tribal law (when on tribal lands).
 16 a. NRCS shall comply with relevant and applicable state law, including permit requirements
 17 on state land, and with relevant and applicable tribal law when on tribal lands.
 18
 19 XV. Duration of PA.
 20 a. This PA will be in effect for 20 years from the date of execution.
 21
 22 XVI. Amendment and termination.
 23 a. This agreement may be amended when such an amendment is agreed to in writing by all
 24 signatories. The amendment will be effective on the date a copy signed by all of the
 25 signatories is filed with the NRCS FPO and the ACHP.
 26 b. If any signatory to this agreement, or the ACHP, determines that its terms will not or
 27 cannot be carried out, that party shall immediately consult with the other parties to
 28 attempt to develop an amendment per Stipulation XVI.a. If within thirty (30) days (or
 29 another time period agreed to by all signatories) an amendment cannot be reached, any
 30 signatory or the ACHP may terminate the agreement upon written notification to the
 31 other signatories.
 32 c. If agreement is terminated, NRCS shall comply with 36 CFR Part 800 for all
 33 undertakings that have the potential to affect historic properties.
 34

35 *Execution of this agreement by the NRCS and SHPO/Indian tribe/NHO and implementation of its terms*
 36 *evidence that NRCS has taken into account the effects of this undertaking on historic properties and*
 37 *afforded the ACHP an opportunity to comment.*
 38
 39
 40

Comment [KEYF29]: Specify further minimum information to be included?

Comment [KEYF30]: Is there a need to clarify what information can be shared with SHPO, Indian tribes, NHOs?

Comment [KEYF31]: Should this report be made available to the public? Confidentiality issues?

Comment [KEYF32]: Maybe require annual review for first 5 years, then one review every 5 years after?

Comment [KEYF33]: Perhaps note, in the ACHP's instruction letter, that states can make this duration period shorter, but not longer?

Comment [KEYF34]: Require all agreements, and amendments, to be filed with FPO and ACHP.

Appendix 1: NRCS undertakings requiring no further Section 106 review. (Consider and address actions falling under each undertaking.)

Appendix 2: Form for determining if undertaking meets the criteria in Appendix 1.

Appendix 3: Minimum Project Submittal Requirements. (Describe minimum documentation to be included with project submittals. Refer to requirements of 36 CFR § 800.11. Allow states to tailor as long as meet minimum standards; e.g., where appropriate, may reference state historic preservation plan guidelines.)

Appendix 4: Treatment Plan for Post-Review Discoveries and Unanticipated Effects. (If needed, in addition to or modifying the steps provided in stipulation XI.)

***Note:** Should the ACHP designate this prototype programmatic agreement, it would issue an instruction letter to accompany the agreement document with guidelines for its implementation.